



Rule(s) Review Checklist Addendum
(This form must be filled out electronically.)

This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-20-145**
 Local sales and use tax

Date last reviewed: **September 30, 1997**

Current Reviewer: **JoAnne Gordon**

Date current review completed: **October 23, 2002**

Is this document being reviewed at this time because of a taxpayer or association request? (If "YES", provide the name of the taxpayer/association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** ☒

Type an "x" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Briefly describe the subject matter of the rule(s):

For purposes of determining the appropriate rate of local sales or use tax, Rule 145 provides guidance for determining where a sale of goods and/or services occurs.

2. Related statutes, interpretive statements, court decisions, BTA decisions, and WTDs:

(Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered interpretive statements.)

YES	NO	
X		Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
X		Are there any administrative decisions (e.g., Appeals Division decisions



		(WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

The following laws changes have occurred since the previous review Rule 145:

- Chapter 186, Laws of 2001, provides that for linen and uniform supply services, the place of sale for state and local sales tax purposes is the place where linen and uniform supply items are delivered to the customer.
- Chapter 67, Laws of 2002, adopts the federal Mobile Telecommunications Sourcing Act by providing that sales of mobile telecommunications services are sourced to the subscriber's residential or business address.

The following Washington Tax Decisions should be incorporated at such time as Rule 145 is revised:

- Det. No. 00-197, 21 WTD 85 (2002) with respect to determining the place of sale when assembly services performed at the customer's location are an integral part of the purchase contract.
- Det. No. 98-115, 18 WTD 327 (1998) with respect to determining the place of sale when the seller has no retail location and delivers the goods to the buyer from the location of a third party supplier/wholesaler.

3. Additional information: Identify any additional issues (other than that noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

Various other rules discuss determining the place of sale for state and local sales tax purposes under specific situations. When Rule 145 is revised, the rule should incorporate references to the following rules:

- Rule 158 (Florists and nurserymen) discusses place of sale with respect to florist sales via telegraphic delivery.
- Rule 165 (Laundry, dry cleaning, linen and uniform supply, and self-service and coin operated laundry services) discusses determining the place of sale for various laundry-related activities.
- Rule 17803 (Use tax on promotional materials) discusses determining the place of first use with respect to promotional materials that are distributed within this state when such materials have not been subjected to retail sales tax.
- Rule 211 (Leases or rentals of tangible personal property) discusses determining the place of sale for short- and long-term leases.



- **Rule 221 (Collection of use tax by retailers and selling agents) discusses the circumstances under which persons obligated to collect use tax may collect and report local use tax using the uniform statewide rate.**
- **Rule 245 (Telephone business, telephone service) should be referenced only if the rule is revised to implement chapter 67, laws of 2002 and the federal Mobile Telecommunications Sourcing Act.**

This rule can be rewritten and organized in a more clear and concise manner using the format currently preferred by the Department.

4. LISTING OF DOCUMENTS REVIEWED: The reviewer need identify only those documents that were not listed in the previous review of the rule(s). (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive statements, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented:

RCW 82.04.065 (Telephone and telecommunications-related definitions)
RCW 82.08.0202 (Retail sales of linen and uniform supply services)
RCW 82.08.066 (Deemed location for mobile telecommunications services)
RCW 82.14.020 (Definitions -- Where retail sale occurs)

Interpretive statements (e.g., ETAs and PTAs):

Court Decisions:

Board of Tax Appeals Decisions (BTAs):

Administrative Decisions (e.g., WTDs):

- **Det. No. 00-197, 21 WTD 85 (2002) concluded that the place of sale determined by assembly location of 340 ton shovel manufactured outside the state and delivered via multiple trailer's to and assembled at the customer's location.**
- **Det. No. 98-115, 18 WTD 327 (1998) concluded that the customer's location determined the appropriate local sales tax when a fuel distributor, lacking a retail outlet within the state, picked up fuel from an in-state wholesale distributor and delivered the fuel to the customer's location.**

Attorney General's Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):



Special Notices

- **Addressed-based Database Now Available for Local Tax Coding for Mobile Telecommunications Services** issued September 5, 2002
- **Tax Reporting Changes for Linen and Uniform Supply Services** issued July 1, 2001

4. Review Recommendation:

- X** **Amend**
- _____ **Repeal** (Appropriate when repeal is not conditioned upon another rule-making action.)
- _____ **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- _____ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

As noted in the previous rule review, Rule 145 should be revised to consolidate numerous supplemental documents. Any revision should also incorporate recent legislation and references to other pertinent rules.

Rule 145 will be affected if various provisions related to the national Streamlined Sales Tax Project (SSTP) are enacted into law. Thus, while this and the previous review demonstrate a need to amend Rule 145, this reviewer recommends waiting until the final results of the SSTP are known.



Manager action: Date: _____

_____ Reviewed and accepted recommendation

Amendment priority:

- _____ 1
- _____ 2
- _____ 3
- _____ 4